

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

PAUL KURLANSKY, HELAINE KURLANSKY,
MARTIN EPSTEIN, HERBERT ENNIS, JUDITH
ENNIS, MORDECAI APPLETON, HENRY KATZ,
LILA KATZ, JOAN KATZ, GLENN KATZ, and
JUDITH SINGER,

Plaintiffs,

-against-

1530 OWNERS CORP.; MOE MARSHALL,
ELLEN GERBER, KENNETH LIPKE, CAROL
LICHTBRAUN, JUSTIN WIMPFHEIMER,
PATRICIA DI CONSTANZO, and MARK
O'NEILL, Individually and as Members of the Board
of Directors of 1530 Owners Corp., and;
FIRSTSERVICE RESIDENTIAL,

Defendants.

**DECLARATION OF JOAN KATZ PURSUANT TO 28 U.S.C. § 1746
IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION**

I, Joan Katz, hereby declare under penalty of perjury:

1. I am a plaintiff in this proceeding and a resident of the Colony in Fort Lee, New Jersey, where I have been living with my husband, Glenn Katz, since May 2015. We reside in the Colony's North Tower in apartment 30B. I have personal knowledge of the facts set forth herein, and I submit this Declaration in support of Plaintiffs' Application for Preliminary Injunction.

2. As an observant Jew, two sincerely held religious beliefs are: (i) *halakha*, the primacy of the Jewish legal system that establishes a framework for my entire life, and; (ii) *kehillah*, the importance of joining together with members of my community to worship, study, mourn during sad times, and celebrate during joyous ones.

3. My observance of the Sabbath, the Jewish day of rest that spans from Friday evening until Saturday night, touches directly on *halakha* (Jewish law) and *kehillah* (Jewish community). On the Sabbath, and certain Jewish holidays, observant Jews like me follow the *halakha* of refraining from certain activities, including the use of electronic and certain mechanical devices. For example, we observant Jews do not press elevator buttons or use telephones on the Sabbath and certain Jewish holidays. Doing so would violate *halakha*, my sincerely held religious beliefs.

4. I am a member of the Sabbath Elevator Committee, and familiar with the fact that the Colony's service elevators are equipped with a Sabbath mode that allows the elevators to be pre-programmed to stop at certain floors, obviating the need for any button pushing. I am also familiar with the Colony's longstanding practice of its staff assisting observant Jewish residents with the elevators on the Sabbath and certain Jewish holidays by pressing elevator buttons. I view this as merely part of the Colony's larger practice whereby staff regularly carry out various tasks for residents. For example, the staff take medical prescriptions up and down to residents' apartments; they take trash out for residents if they are sick; and they bring up deliveries for residents. The staff assists my husband and me whenever we enter the building carrying luggage.

5. I am 69 years old and suffer from an autonomic dysfunction that affects my balance. As a result, when the building's Sabbath elevator system was in service, it substantially enhanced my Sabbath experience because I was able to travel freely to synagogue and have festive meals with our neighbors. I am co-president of sisterhood at the Young Israel of Fort Lee, and the Sabbath elevator enabled me to go to synagogue to pray, study, and socialize with

fellow congregants. In other words, the Sabbath elevator enabled me to practice *kehillah* (Jewish community), another of my most sincerely held religious beliefs

6. I attended several meetings with Mr. Marshall after the Sabbath elevator program began. At the last meeting, Mr. Marshall told us that the Colony needed to shorten the Sabbath elevator program from nine to five hours, and if Sabbath observant residents did not agree, the program would be terminated entirely. Mr. Marshall told us that the hours needed to be reduced due to supposed “wear and tear” on the elevator doors, the purported needs of the maintenance staff to use the service elevators, and shareholder “complaints.”

7. The “wear and tear” rationale seemed especially wanting, given that the new elevators were installed in 2019. Accordingly, we asked Mr. Marshall for documentation to support his “wear and tear” rationale. He denied our request, and when we offered to sponsor an independent evaluation of the supposed “wear and tear,” angrily rebuffed us. Nor, despite our request, has Mr. Marshall ever provided evidence of the alleged shareholder complaints.

8. I believe that Mr. Marshall’s and his fellow Board Members’ decision to terminate the Sabbath elevator program, and to prohibit staff from pressing elevator buttons for residents, is motivated by anti-religious animus. In 2018, Glenn and I heard the Board Secretary, Carol Lichtbraun, remark that she did not want “too many of those types of Jews”—which I took as religious Jews—“moving into the building.” When I asked Ms. Lichtbraun if she had a problem with Sabbath observant Jews, Ms. Lichtbraun chose not to respond, which I took as confirmation under the circumstances. On a different occasion, an early 2019 meeting of the Colony’s social committee, Board member Justin Wimpfheimer strenuously objected to hiring a particular entertainer for a social event because “he’s too Jewish.” I asked Mr. Wimpfheimer if

he was being serious, to which he replied “serious.” Mr. Wimpfheimer and Ms. Lichtbraun are among the most vocal opponents of the Sabbath elevator program.

9. I refuse to let the Board’s termination of the Sabbath elevator program prevent me from carrying out my commitments to *halakha* (Jewish law) and *kehillah* (Jewish community). I have risked – and absent the Sabbath elevator program may continue risking – my health to do so. On the Sabbath, in order to attend synagogue, I walk down the thirty flights of stairs from my apartment to the lower lobby, fearful throughout that I may lose my balance. Given my medical condition, the experience is deeply nerve-racking. I have asked Marty Epstein to include me when he coordinates with the hired individual who is not a building employee for elevator assistance; but, as my fellow residents have attested, this is not a solution because it does not systematically address the diverse needs of the Sabbath-observant collective.

10. The Board’s discriminatory policy of prohibiting staff from pressing elevator buttons for Sabbath observant Jews has caused me deep humiliation. On a recent Sabbath afternoon, after returning from synagogue, I walked with other Sabbath observers to the elevator area, hopeful that someone would press the buttons for us. I was encouraged when a staff member—who has previously helped with elevator assistance—came to the elevator. Mrs. Ennis audibly praised the staff member for his past assistance and it was clear that he knew we were waiting to be assisted with button pushing this time as well. But because of the Board’s new policy, the staff member walked right past us into the elevator and declined to push the buttons for us. The fact that the Board would prohibit Colony staff from literally lifting a finger to help me because of my religious beliefs left me feeling disgraced, ostracized, and alone. I relive that humiliation every Sabbath when I pass building staff, knowing that they are prohibited from

helping me on the same terms as other residents simply because I am a Jew who observes the Sabbath.

11. The building continues to retaliate against Glenn and me for advocating for the Sabbath elevator. Prior to my involvement with the Sabbath elevator committee, the building addressed any repairs in my apartment promptly and professionally. Since I joined the Sabbath elevator committee, this has changed. In December, we had a leak in our unit that caused damage to our apartment: we were forced to wait *five months* for the building to finish repairs. According to Jude Odenthal, the Colony's property manager, Glenn and I declined to let the building complete the repairs because it was Passover. That is false: the staff never approached us to fix the leak and we never denied them entry, on account of our religious observance or otherwise. I am upset about the extreme delay in the repairs, but far more distraught that I feel I am being punished us for our Sabbath and holiday observance.

12. For all of these reasons, I respectfully request that this Court grant Plaintiffs' application for a preliminary injunction.

13. I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 17, 2021.


JOAN KATZ